

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NUMBER 5:19-CV-386-BO

DREAM YACHT AMERICAS, INC.,)	
and DREAM YACHT CHARTER,)	
)	DREAM YACHT’S MOTION
Plaintiffs,)	TO STRIKE ANSWER, ENTER
)	DEFAULT JUDGMENT, AND
v.)	DISMISS COUNTERCLAIM
)	
)	
BLACK TRAVEL MOVEMENT,)	
LLC, and REGINALD E. CUMMINGS)	
)	
Defendants.)	

Pursuant to Rule 37(b)(2)(A) of the Federal Rules of Civil Procedure, Plaintiffs Dream Yacht Americas, Inc., and Dream Yacht Charter (collectively, “Dream Yacht”) move to strike the Answer and Counterclaim filed by Defendants Black Travel Movement, LLC (“BTM”) and Reginald E. Cummings, enter default judgment against Defendants on Dream Yacht’s claims in the amount of \$1,655,351.31, plus interest, and to dismiss Defendants’ counterclaim with prejudice. Dream Yacht also its seeks attorneys’ fees incurred in prosecuting this action pursuant to section 75-16.1 of the North Carolina General Statutes, or in the alternative, its reasonable expenses, including attorneys’ fees, incurred as a result of Defendants’ noncompliance pursuant to Rule 37(b)(2)(C).

In support of its motion, Dream Yacht relies on its accompanying brief and materials cited therein, including the Verified Complaint, the below-listed exhibits, and respectfully shows the following:

1. This motion and its supporting materials are being served on every party that has appeared in this action. As shown in paragraphs 13, 14, and 15 of the attached Declaration of Kelly Margolis Dagger, neither of the parties against whom judgment is sought is an infant, an incompetent person, or in the military service of the United States as defined in the Servicemembers Civil Relief Act of 2003, as amended. *See* Local Civ. R. 55.1(b)(1).

2. Dream Yacht is attaching the following exhibits to this motion:

Declaration of Kelly Margolis Dagger (Exhibit 1).

Letter from P. Sun to R. Cummings with Enclosures (Exhibit 2).

FedEx Delivery Confirmation (Exhibit 3).

Email from K. Dagger to R. Cummings with Attachments (Exhibit 4).

Black Travel Movement, LLC Secretary of State Records (Exhibit 5).

N.C. Board of Elections Voter Record for R. Cummings (Exhibit 6).

3. Dream Yacht respectfully requests that, if the Court awards attorneys' fees under section 75-16.1 or Rule 37(b)(2)(C), Dream Yacht be permitted to file a notice and supporting materials documenting the fees incurred.

4. Dream Yacht is attaching a proposed order to this motion.

This the 17th day of August, 2020.

ELLIS & WINTERS LLP

/s/ Kelly Margolis Dagger

Paul K. Sun, Jr.

N.C. State Bar No. 16847

Kelly Margolis Dagger

N.C. State Bar No. 44329

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Admitted by Special Appearance

*Counsel for Plaintiffs Dream Yacht Americas, Inc.
and Dream Yacht Charter*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed with the Clerk of Court using the CM/ECF system, which will send notice of such filing to all parties who have entered an appearance. The undersigned further certifies that the foregoing is being served on Defendants via United States mail, first class, addressed as follows:

Reginald E. Cummings
4705 Porchaven Lane
Apex, North Carolina 27539
Defendant

Black Travel Movement, LLC
c/o Reginald E. Cummings, Registered Agent
4705 Porchaven Lane
Apex, North Carolina 27539
Defendant

This the 17th day of August, 2020.

ELLIS & WINTERS LLP

/s/ Kelly Margolis Dagger
Kelly Margolis Dagger

*Counsel for Plaintiffs Dream Yacht Americas, Inc.
and Dream Yacht Charter*